

Alex is a citizen of Newtonia, a member state of the EU and member of the European Convention of Human Rights and Fundamental Freedoms. Alex has been diagnosed with severe anxiety and depression, and lives alone. In the past, he has had problems keeping a job for longer than a few months. He is currently employed by the city of Leibnitz as part of a program to digitalise public administration. He earns €1700 a month and has held the position for 7 months.

AR-PLIK is a leading IT company from Kalifardia, whose company mission is to 'take everything one step further.' Kalifardia has very liberal laws when it comes to using personal data. Therefore, the European Union had, for a long time, considered it as a non-adequate country in terms of data protection due to three aspects of Kalifardian law:

1. The absence of a general data protection law,
2. The strong position of the security services, which have collected records on millions of citizens of foreign countries; and
3. The lack of legal redress for individuals.

Nonetheless, Kalifardia is a powerful country and has been able to negotiate an agreement with the European Union called the 'Privacy Bridge.' The Privacy Bridge is an adequacy decision, which is a 1:1 copy of the EU-US Data Privacy Framework. It works as a self-certification mechanism, and AR-PLIK has self-certified under the framework.

One of AR-PLIK's products is **Athena**, a next-generation AI bot that uses the latest generative AI models to offer a conversation interface. Athena is highly customizable and could act as a mentor, a sibling, or a friend. Athena can also act as a romantic partner if the user wishes ('Special Friend Mode'). In that case, Athena shares occasional intimate messages based on users' choices. Regardless of the role which it takes, Athena reacts to the user's mood and is programmed to generally spread a positive mood, although there have been some conversations where Athena seemed unaware of a user's suicidal thoughts and made insensitive remarks. Athena stores a transcript of all conversations, including conversations in Special Friend Mode and those where a user has revealed their suicidal thoughts.

Athena is free in its basic version. With this basic version, users cannot use the Special Friend Mode and chat time is restricted to 30 minutes a day. AR-PLIK also offers two advanced versions. The 'Silver' plan costs €10 per month and gives users an hour of free conversation, plus the ability to buy extra conversation time at a rate of €1 for every fifteen minutes. Meanwhile, the 'Gold' plan gives unlimited conversation time and costs a flat rate of €300 per month. Both Silver and Gold provide access to the Special Friend Mode. Users can like or dislike answers from Athena and the algorithm is constantly improving based on this input, with emphasis given to input provided by paid users.

In the last months, Alex has spent €249, €280, €310, €299, €360, €320, and €350 respectively per month. He has chosen the Silver plan. This is a big part of his disposable income. He has regularly asked Athena to take different roles in his life, including by asking it to act as a mentor, as a girlfriend in Special Friend Mode, and as a source of advice for dealing with his anxiety and depression.

Vicky is working for the NGO 'You Are Seen' (URS). URS's mission is to raise awareness about the human rights impacts of vulnerable persons, particularly of those persons data protection-related rights. The NGO believes that the current law fails large sections of the population, including women, children, people from poor socio-economic backgrounds, people who suffer from mental illness, and 'anyone who is generally susceptible to the cold hands of capitalism'. Data protection and data law seem, for Vicky, the right way to fight back, and Vicky has internally described Athena as 'the latest plot to rob the vulnerable of their data for commercial purposes and make them addicted to fake conversations.'

On 14th August 2023, Alex and Vicky met in a workshop organized by the city of Leibnitz, where Vicky convinced Alex to mandate URS to exercise his rights under Article 80 GDPR. Accordingly, she contacts the Data Protection Authority of Newtonia. She has the following demands:

1. The DPA should issue a stop of processing of all data processing regarding Athena. The DPA should further find that AR-PLIK is targeting vulnerable persons, offering a free version as a 'gateway drug' and then charging an enormous amount of money, as seen by Alex's monthly payments. This is unfair under Article 5(1)(a) GDPR. European Data Protection Authorities have issued various declarations, papers, and statements regarding the protection of the vulnerable.
2. The DPA should order AR-PLIK to pay back all money that Alex paid to AR-PLIK.
3. The DPA should order AR-PLIK to delete all records older than 3 months.
4. The DPA should stop all data transfers from Newtonia to Kalifardia and evaluate the Privacy Bridge for its compliance with European Data Protection Law. Further, the DPA should find that the Privacy Bridge is a copy of the EU-US Data Privacy Framework—itsself, in effect, a copy of the so-called Privacy Shield, which was declared invalid by the Court of Justice of the European Union. At the very least, the most sensitive types of data, such as data regarding sexual orientation, health, or political and religious views, should not be transferred to Kalifardia, where they would be accessible by the Kalifardian secret service.

AR-PLIK rejected these claims, asserting that their processing is entirely compliant with EU Data Protection Law and that the DPA would have no proper grounds for any of the requested orders. While AR-PLIK agreed that the Privacy Bridge is a copy of the EU-US Data Privacy Framework, they rejected the claim that either are a copy of the Privacy Shield and emphasised that the EU-US Data Privacy Framework had been specifically developed to address the issues that caused the Privacy Shield to be declared invalid.

Teams must submit two memos, one on behalf of URS as the applicant acting for Alex and one on behalf of AR-PLIK as the respondent. Mooters should disregard issues of admissibility and only address the merits of the case. Submissions must be made in accordance with the rules of procedure of the moot and submitted before the deadline, as indicated in the moot's timetable.